

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN STANLEY (STAN) FISHER**, on January 31,
2003 at 8:12 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Stanley (Stan) Fisher, Chairman (R)
Sen. Corey Stapleton, Vice Chairman (R)
Sen. Keith Bales (R)
Rep. Tim Callahan (D)
Rep. Carol C. Juneau (D)
Rep. Dave Lewis (R)
Sen. Trudi Schmidt (D)

Members Excused: Rep. Carol C. Juneau (D)

Members Absent: None.

Staff Present: Marian Collins, Committee Secretary
Christi Moyer, OBPP
Lorene Thorson, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed. The time
stamp for these minutes appears at the beginning
of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: Department of Justice Budget

{Tape: 1; Side: A; Approx. Time Counter: 0.5 - 7.1}

Mike Batista, Administrator, Criminal Investigation Division, Department of Justice, introduced several individuals wishing to support permanent funding for the Computer Crime Unit (CCU).

Bill Dove, Deputy Chief of Police, Bozeman, Montana, representing the Montana Police Protective Association (MPPA), stated that MPPA supports permanent funding for the CCU. The support and expertise this Unit gives local investigative divisions cannot be stressed enough. There's been a drastic increase in computer crimes in the last couple of years, and more technology-based crimes are occurring all the time.

Kent Funyak, Under Sheriff of Cascade County, and a board member for the Sheriff's and Peace Officer's Association (SPOA), expressed support for funding the CCU. Cascade County has used this Unit several times in the past for a variety of crimes ranging from arson to official misconduct. Most of the crimes currently being investigated involve either child abuse or child pornography. Without the expertise of the Unit, it's unknown how local law enforcement would be able to investigate computer crimes. The evidence gathered is usually the information necessary to charge someone with a crime.

Mark Tymrak, Chief of Police, Bozeman, Montana, and representing the Montana Association of Chiefs of Police, supports the CCU's continued funding. It is critical to law enforcement. Without evidence gathered by the Unit such as e-mails, many cases will go unprosecuted.

EXECUTIVE ACTION ON DEPARTMENT OF JUSTICE BUDGET

Prior to the following motion, extensive discussion was involved in the wording of the motion.

{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 26}

Motion/Vote: REP. LEWIS moved THE EXECUTIVE BUDGET DECISION PACKAGES, WHICH LEAVES UNSPECIFIED GENERAL FUND REDUCTIONS OF \$6,474,985 IN FISCAL 2004 AND \$6,093,787 IN FISCAL 2005. REP. LEWIS MOVED THAT THE UNSPECIFIED REDUCTION AMOUNTS BE REPLACED WITH 50 PERCENT GENERAL FUND AND 50 PERCENT FROM THE NON-RESTRICTED HIGHWAYS STATE SPECIAL REVENUE ACCOUNT. Motion carried 6-1 with REP. STAPLETON voting no by roll call vote.

Motion/Vote: SEN. BALES moved to ADOPT THE FISCAL 2002 BASE FOR ALL FUNDING, EXCEPT FOR GENERAL FUND, AND STATEWIDE PRESENT LAW ADJUSTMENTS AS REQUESTED FOR ALL FUNDS. Motion carried 7-0 by voice vote.

{Tape: 1; Side: B; Approx. Time Counter: 0.4 - 8}

Motion: CHAIRMAN FISHER moved that \$210,000 IN STATE SPECIAL FUNDS BE REMOVED FOR THE BIENNIUM DUE TO THE AGENCY'S ABILITY TO SAVE ON THE PURCHASE OF CARS FOR THE HIGHWAY PATROL.

Discussion: SEN. BALES asked if this motion was an amendment to REP. LEWIS'S motion. CHAIRMAN FISHER responded, "Yes."

Ms. Thorson asked for clarification on the motion. She stated the \$210,000 is highway state special revenue funds and that the subcommittee may want to use the savings in highway state special revenue funds to replace general fund somewhere else, such as prisoner per diem. Discussion followed regarding how the committee was going to proceed with regard to the decision packages.

Vote: Motion carried 7-0 by voice vote.

Motion: CHAIRMAN FISHER moved that \$87,500 INCLUDED IN THE ATTORNEY GENERAL'S PROPOSAL NOT BE APPROVED AS THE DEPARTMENT IS REQUESTING THAT THE 1.0 FTE THAT WAS FEDERALLY FUNDED NOW BE BACKFILLED WITH GENERAL FUND.

Discussion: CHAIRMAN FISHER expressed concern for the Computer Crime Unit. \$87,500 was not included in the Governor's Executive Budget but the Attorney General has the right to ask for funds outside of the Executive Budget. This unit was federally-funded and if those funds disappear, the position disappears.

REP. CALLAHAN suggested that just because a position is initially funded by federal money does not mean it's not important or not needed. At some point, it was identified that this was an important position to the Department, the State and to the people that they serve. It continues to be an important position. Though the Department saved money initially by using federal funding for the position, that is no reason to refuse state funding now.

CHAIRMAN FISHER stated that there are funds available internally for funding of the position if the Department chooses. **SEN.**

SCHMIDT expressed concern that the Unit is a valued asset to communities and therefore worth funding. **SEN. BALES** asked whether or not the \$87,500 is actually in the budget. **CHAIRMAN FISHER** stated that it is not. **SEN. BALES** suggested funding the \$87,500

out of the \$210,000 saved from the previous motion. **Ms. Thorson** stated that the \$210,000 special revenue could be applied to prisoner per diem, which is general fund, put the highway state special fund to replace that and then there is some general fund freed up to support the Computer Crime Unit.

At this point, **CHAIRMAN FISHER** rescinded his motion.

{Tape: 1; Side: B; Approx. Time Counter: 16.5 - 30}

Prior to the following motion, **SEN. STAPLETON** explained that currently in the Criminal Investigation Division there are four bureaus: Investigation Bureau has 25 FTE (Full-time Equivalent Employee), Narcotics Bureau with 19 FTE, Law Enforcement Academy with 13 FTE, and Fire Prevention & Investigation Bureau with 10.5 FTE.

MOTION: SEN. STAPLETON moved to **ELIMINATE THE FIRE PREVENTION INVESTIGATION BUREAU AND TRANSFER 2.5 FTE TO THE INVESTIGATIONS BUREAU AND ELIMINATE 8 FTE. IN PLACE OF THE ELIMINATED BUREAU, ADD THE COMPUTER CRIME UNIT BUREAU AS PRESENTED IN THE NARRATIVE FOR THE ELECTED OFFICIAL PROPOSALS AND FUND IT WITH \$400,000 GENERAL FUND.**

Discussion: SEN. STAPLETON explained that the Department would shift administrative responsibility for such things as fire and line safety inspection, fire code interpretations, etc. to local jurisdiction. 2.5 FTE would remain for investigations in arson detection. Testimony indicated that they only do 30-50 cases per year which could be handled by two and a half or three FTE. The remaining investigators could move into the Investigation Bureau. **REP. CALLAHAN** expressed concern that many communities do not have the capability of assuming responsibility for duties currently handled by the Fire Prevention & Investigation Bureau. **REP. JUNEAU** asked if there is a RIF process available to assist state employees in securing other employment. **Ms. Thorson** stated that there is a RIF process in the Department of Labor.

Vote: Motion carried 6-1 with REP. CALLAHAN voting no by roll call vote.

{Tape: 2; Side: A; Approx. Time Counter: 6.3 - 7.7}

Motion/Vote: SEN. SCHMIDT moved **RAISING DP 8003 - "MOTOR VEHICLE REGISTRATION AUTOMATION" TO \$4.4 MILLION BIENNIUM FROM \$3.9 MILLION STATE SPECIAL MONEY TO COVER DEBT SERVICE AS NEEDED.** Motion carried 7-0 by voice vote.

SEN. SCHMIDT asked for clarification of the gambling issue presented on page D-15 of the Legislative Budget Analysis 2005. **Ms. Thorson** explained that the Gambling Control Division should be funded by fees, taxes, and penalties on gambling activities. There is general fund that is used because several biennia ago the legislature took \$1.5 million from the state special revenue account and made a commitment that they would repay \$1.9 million general fund through the years. Options for replacing the general fund are listed on the bottom of page D-15. Any option would require legislation.

Further discussion followed. No decisions were made.

{Tape: 2; Side: A; Approx. Time Counter: 22.6 - 30}

Prior to the following motion, committee discussion took place.

{Tape: 2; Side: B; Approx. Time Counter: 2.2 - 12.1}

Motion/Vote: **SEN. SCHMIDT** moved **AN ADDITIONAL \$207,193 GENERAL FUND FOR FISCAL YEAR 2004 AND \$285,680 FOR FISCAL 2005 TO PAY COUNTY ATTORNEYS**. Motion carried 6-1 with **SEN. STAPLETON** voting no by voice vote.

Motion/Vote: **REP. CALLAHAN** moved to **MAKE PRISONER PER DIEM A BIENNIAL APPROPRIATION**. Motion carried 7-0 by voice vote.

Motion/Vote: **REP. CALLAHAN** moved **ALL EXECUTIVE DECISION PACKAGES, NOT PREVIOUSLY AMENDED, FOR ALL FUNDS EXCEPT GENERAL FUND**. Motion carried 7-0 by voice vote.

Motion/Vote: **SEN. BALES** moved **APPROVAL OF THE RATES FOR AGENCY LEGAL SERVICES ON PAGE D-22 OF THE LEGISLATIVE BUDGET ANALYSIS**. Motion carried 7-0 by voice vote.

Motion/Vote: **REP. CALLAHAN** moved **THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "IF SENATE BILL NO. 118 IS NOT PASSED AND APPROVED, ITEM [MOTOR VEHICLE DIVISION] IS INCREASED BY \$251,415 OF GENERAL FUND MONEY IN FISCAL YEAR 2004."** Motion carried 7-0 by voice vote.

Motion/Vote: SEN. BALES moved THE FOLLOWING LANGUAGE BY INCLUDED IN HB 2: "IF LC1607 IS NOT PASSED AND APPROVED, ITEM [MOTOR VEHICLE DIVISION] IS INCREASED BY \$152,457 OF GENERAL FUND MONEY IN FISCAL YEAR 2004 AND \$172,730 OF GENERAL FUND MONEY IN FISCAL YEAR 2005." Motion carried 6-1 with REP. JUNEAU voting no by voice vote.

Motion/Vote: SEN. STAPLETON moved THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "ITEM [MOTOR VEHICLE REGISTRATION AUTOMATION] IS CONTINGENT ON PASSAGE AND APPROVAL OF HB 261." Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "FISCAL YEARS 2004 AND 2005 STATE SPECIAL REVENUE IN ITEM [MOTOR VEHICLE DIVISION] INCLUDES \$3,237,493 IN FISCAL YEAR 2004 AND \$3,046,893 IN FISCAL YEAR 2005 OF THE FUND BALANCE FROM REVENUE SOURCES NOT RESTRICTED TO CERTAIN PURPOSES BY THE MONTANA CONSTITUTION." Motion carried 7-0 by voice vote.

Motion/Vote: REP. CALLAHAN moved THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "IF HOUSE BILL NO. 124 IS NOT PASSED AND APPROVED, ITEM [DIVISION OF CRIMINAL INVESTIGATION] IS INCREASED BY \$1,103,400 OF GENERAL FUND MONEY IN FISCAL YEAR 2004 AND \$1,106,952 OF GENERAL FUND MONEY IN FISCAL YEAR 2005 AND STATE SPECIAL REVENUE IS DECREASED BY THE SAME AMOUNTS IN EACH FISCAL YEAR." Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "THE APPROPRIATION FOR LEGISLATIVE CONTRACT AUTHORITY IS SUBJECT TO ALL OF THE FOLLOWING PROVISIONS:
1) LEGISLATIVE CONTRACT AUTHORITY EXPENDITURES MUST BE REPORTED ON STATE ACCOUNTING RECORDS AND KEPT SEPARATE FROM PRESENT LAW OPERATIONS. IN PREPARING THE 2007 BIENNIUM EXECUTIVE BUDGET, THE OFFICE OF BUDGET AND PROGRAM PLANNING MAY NOT INCLUDE EXPENDITURES FROM THIS ITEM IN THE PRESENT LAW BASE.
2) A REPORT MUST BE SUBMITTED BY THE DEPARTMENT TO THE LEGISLATIVE FISCAL ANALYST FOLLOWING THE END OF EACH FISCAL YEAR LISTING LEGISLATIVE CONTRACT AUTHORITY GRANTS RECEIVED AND THE AMOUNT OF EXPENDITURES AND FTE FOR EACH GRANT." Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved THE FOLLOWING LANGUAGE BE INCLUDED IN HB 2: "IF SENATE BILL NO. 128 IS NOT PASSED AND APPROVED, ITEM [INFORMATION TECHNOLOGY SERVICES DIVISION] IS INCREASED BY \$120,794 OF GENERAL FUND MONEY IN FISCAL YEAR 2004 AND \$120,839 OF GENERAL FUND MONEY IN FISCAL YEAR 2005 AND STATE SPECIAL REVENUE IS DECREASED BY \$290,589 IN FISCAL YEAR 2004 AND \$290,371 IN FISCAL YEAR 2005." Motion carried 7-0 by voice vote.

{Tape: 3; Side: A; Approx. Time Counter: 0.7 - 2}

Motion/Vote: REP. CALLAHAN moved RE-APPROPRIATION OF \$337,909 FOR THE AUTOMATED ACCOUNTING AND REPORTING SYSTEM (AARS) AS A RESTRICTED, BIENNIAL, ONE-TIME-ONLY APPROPRIATION. Motion carried 7-0 by voice vote.

Motion/Vote: REP. CALLAHAN moved that DP 103 BE ADOPTED AS A BIENNIAL, RESTRICTED APPROPRIATION. Motion carried 7-0 by voice vote.

Motion/Vote: SEN. SCHMIDT moved that DP 1203 BE ADOPTED AS A BIENNIAL APPROPRIATION. Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved to ACCEPT THE AGENCY'S REMOVAL OF DP 102 - FUNDING FOR RESTORATIVE JUSTICE OFFICE - WHICH INCLUDED ONE FTE. THIS WOULD RESULT IN THE FEDERAL AUTHORITY COMING OUT OF THE BUDGET. Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved to REDUCE THE FTE BY ONE IN DP 1802 - EASTERN MONTANA DRUG TASK FORCE - AND MOVING FUNDING FOR THAT POSITION IN PERSONAL SERVICES TO CONTRACTED SERVICES. Motion carried 7-0 by voice vote.

Motion/Vote: SEN. SCHMIDT moved to ACCEPT THE AGENCY'S WITHDRAWAL OF DP 3201 - LATENT PRINT EXAMINER. Motion carried 7-0 by voice vote.

Motion/Vote: REP. CALLAHAN moved to ACCEPT THE AGENCY'S WITHDRAWAL OF DP 1806 - HOMELAND SECURITY PROGRAM. Motion carried 7-0 by voice vote.

Motion/Vote: SEN. STAPLETON moved to ADOPT THE BUDGET AS AMENDED FOR THE DEPARTMENT OF JUSTICE. Motion carried 4-3 with REP. CALLAHAN, REP. JUNEAU AND SEN. SCHMIDT voting no by voice and roll call vote.

ADJOURNMENT

Adjournment: 10:45 A.M.

REP. STANLEY (STAN) FISHER, Chairman

MARIAN COLLINS, Secretary

SF/MC

EXHIBIT (jch21aad)